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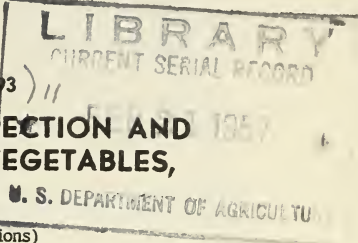
UNITED STATES DEPARTMENT OF AGRICULTURE

2 U.S. AGRICULTURAL MARKETING SERVICE
20 FRUIT AND VEGETABLE DIVISION

3 Service and Regulatory Announcements No. 93

REGULATIONS GOVERNING THE INSPECTION AND
CERTIFICATION OF FRESH FRUITS, VEGETABLES,
AND OTHER PRODUCTS¹

(Title 7, Ch. I, Pt. 51 of the Code of Federal Regulations)



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¹Among such other products are the following: Raw nuts, Christmas trees and greens; flowers and flower bulbs; and onion sets.

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Authority: Secs. 51.1 to 51.59 issued under Sec. 205, 60 Stat. 1090, as amended, 7 U.S.C. 624.

Effective as of January 4, 1957, the Deputy Administrator, Marketing Services promulgated the following regulations covering the inspection and certification of fruits, vegetables, and other products pursuant to authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1087 et seq., as amended; 7 U.S.C. 1621 et seq.), which regulations were published in the Federal Register for December 4, 1956 (14 F.R. Doc 56-9917).

ADMINISTRATIVE

Sec. 51.1 Administration of regulations. The Administrator, Agricultural Marketing Service, United States Department of Agriculture, is charged with the administration of the regulations in this part, except he may delegate any or all of such functions to any other officer or employee of the Agricultural Marketing Service of the Department, in his discretion.

DEFINITIONS

Sec. 51.2 Definitions. Words used in the regulations in this subpart in the singular form shall be deemed to import the plural, and vice versa, as the case may demand. For the purposes of such regulations, unless the context otherwise requires, the following terms shall be construed, respectively, to mean:

(a) Act. "Act" means the applicable provisions of the Agricultural Marketing Act of 1946 (60 Stat. 1087 et seq., as amended; 7 U. S. C. 1621 et seq.) or any other act of Congress conferring like authority.

(b) Regulations. "Regulations" means the regulations in this subpart.

(c) Department. "Department" means the United States Department of Agriculture.

(d) Agricultural Marketing Service. "Agricultural Marketing Service" means the Agricultural Marketing Service of the Department.

(e) Secretary. "Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the Agricultural Marketing Service to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(f) Administrator. "Administrator" means the Administrator of the Agricultural Marketing Service or any other officer or employee of the Agricultural Marketing Service to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(g) Person. "Person" means any individual, partnership, association, business trust, corporation, organized group of persons (whether incorporated or not), the United States (including, but not limited to, corporate agencies thereof), and any State, county, or municipal government, any common carrier, and any authorized agent of any of the foregoing.

(h) Interested party. "Interested party" means any person who has a financial interest in the product on which inspection is requested.

(i) Inspector. "Inspector" means any employee of the Department who is authorized by the Secretary, or any other person licensed by the Secretary, to investigate, sample, inspect, and certify, in accordance with the regulations in this part, to any interested party the quality and/or condition of any product covered under this part, and to perform related duties in connection with such inspection services.

(j) Applicant. "Applicant" means any person who has applied for inspection service under the regulations.

(k) Inspection service. "Inspection service" means the service established and conducted under the regulations for the determination and certification or other identification of the grade, quality or condition of products.

(l) Inspection certificate. "Inspection certificate" means a statement, in written and/or printed form, issued pursuant to the regulations in this part, setting forth, in addition to appropriate descriptive information relative to the particular product and the containers thereof, the quality and/or condition of such product.

(m) Quality. "Quality" means the combination of the inherent properties of a product which determines its relative degree of excellence.

(n) Condition. "Condition" means the relative degree of soundness or preservation of a product and includes, but is not necessarily limited to, its maturity, decay, freezing or mechanical injury, shriveling, flabbiness, or any other factor which affects its merchantability.

(o) Lot. "Lot" means any number of containers which contain a product of the same kind located in the same conveyance or warehouse and which are available for inspection at the same time; Provided, That:

(1) Products which differ from each other as to grade, variety, condition, identification marks, or other factors may be deemed to be separate lots;

(2) If the applicant requests more than one inspection certificate covering different portions of such product, the quantity of the product covered by each certificate shall be deemed to be a separate lot; and

(3) If said product is packed in more than one size or type of container, each such size or type may be deemed to be a separate lot.

Sec. 51.3 Designation of official certificates, memoranda, marks, other identifications, and devices for purposes of the Agricultural Marketing Act. Subsection 203 (h) of the Agricultural Marketing Act of 1946, as amended by Public Law 272, 84th Congress, provides criminal penalties for various specified offenses relating to official certificates, memoranda, marks or other identifications, and devices for making such marks or identifications, issued or authorized under section 203 of said act, and certain misrepresentations concerning the inspection or grading of agricultural products under said section. For the purpose of said subsection and the provisions in this part, the terms listed in this section shall have the respective meanings specified:

(a) "Official certificate" means any form of certification, either written or printed, including those defined in Sec. 51.2, used under this part to certify with respect to the inspection, class, grade, quality, size, quantity, or condition of products (including the compliance of products with applicable specifications).

(b) "Official memorandum" means any initial record of findings made by an authorized person in the process of grading, inspection, or sampling pursuant to this part, any processing or plant-operation report made by an authorized person in connection with grading, inspecting, or sampling under this part, and any report made by an authorized person of services performed pursuant to this part.

(c) "Official mark" means the grade mark, inspection mark, combined form of inspection and grade mark, and any other mark, or any variations in such marks, approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product, stating that the product was graded or inspected, or both, or indicating the appropriate U. S.

grade or condition of the product, or for the purpose of maintaining the identity of products graded or inspected, or both, under this part.

(d) "Official identification" means any United States (U. S.) standard designation of class, grade, quality, size, quantity, or condition specified in this Part of any symbol, stamp, label, or seal indicating that the product has been officially graded or inspected and/or indicating the class, grade, quality, size, quantity, or condition of the product approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product.

(e) "Official device" means a stamping appliance, branding device, stencil, printed label, or any other mechanically or manually operated tool that is approved by the Administrator for the purpose of applying any official mark or other identification to any product or the packaging material thereof.

INSPECTION SERVICE

Sec. 51.4 Where inspection service is offered. Products will be inspected at appropriate points indicated in paragraphs (a), (b) and (c) of this section whenever inspectors are available.

(a) Shipping points. Inspection is available in all areas covered by cooperative agreements providing for this work with States or other agencies which have been entered into on behalf of the Department pursuant to authority contained in any act of Congress, or any other area which is not covered by a cooperative agreement when the Administrator determines that it is practicable to provide inspection service.

(b) Destination markets. Inspection is available in all central markets in which an inspection office is located.

(c) Other points. Inspection may be made at any point which may be conveniently reached from any market referred to in paragraph (b) of this section under conditions provided in Sec. 51.40 and to the extent permitted by the time of the nearest inspector.

(d) Addresses of offices. Any prospective applicant may obtain an up-to-date list of inspection offices by addressing an inquiry to Fresh Products Inspection Service, Fruit and Vegetable Division, Agricultural Marketing Service, Washington 25, D. C.

Sec. 51.5 Kind of service. Inspection of products may be made according to quality and/or condition, and, in the discretion of the Administrator, for any part thereof.

Sec. 51.6 Who may obtain service. An application for inspection may be made by any interested party, or his authorized agent, or by any Governmental Agency.

Sec. 51.7 How to make application. Application for inspection may be filed in an office of inspection at any market referred to in Sec. 51.4, (a), (b), or (d) or with any inspector. It may be made in writing, orally, by telegraph, or by telephone. If made orally or by telephone, the inspector may require that it be confirmed by applicant in writing or by telegraph. An application may be made for one or more lots, or it may be in the nature of a blanket application for inspection of all designated lots of a given commodity within a particular period, or for all designated lots loaded or received at a specified point.

Sec. 51.8 Form of application. Each application for inspection shall state (a) the name and post-office address of the applicant

and the name and capacity of the person, if any, making the application in his behalf; (b) the name and post-office address of the shipper; (c) the kind and quantity of the products involved; (d) the interest of the applicant therein; (e) the identification of the products by (1) grade, brand, or other marks, if practicable, (2) car initials, car number, and name of carrier or number of truck or name of boat, if practicable, and (3) the name and location of the store, warehouse, or other place where the products are located; (f) the particular quality or condition concerning which inspection is requested, to which may be added the time and place at which it is desired that the inspection be made; (g) when the lot is to be inspected in a receiving market, the name and address of the receiver; (h) the name of the shipping point and of the destination, when known; and (i) such other information as may be necessary for identification of the product, or as may be required by the inspector or the Administrator.

Sec. 51.9 Filing of application. An application shall be deemed filed when received at the office of inspection nearest the place where the commodity is located. A record showing the date and time of filing shall be made and kept in such office.

Sec. 51.10 When application may be rejected. An application may be rejected by the inspector in charge of the appropriate office of inspection if the applicant objects to the inspector cutting an adequate number of specimens to determine the interior quality or condition of the product to be inspected, or for failure of the applicant (a) to observe the regulations of this part, (b) to furnish necessary information or to make the commodity reasonably available or accessible for inspection, (c) to pay for previous inspections, or (d) when it appears that to perform the inspection and certification service would not be to the best interests of the Government. Such applicant shall be notified promptly of the reason for such rejection.

Sec. 51.11 When application may be withdrawn. An application may be withdrawn by the applicant at any time before the inspection is performed: Provided, That the applicant shall pay any travel expenses, telephone, telegraph, or other expenses which have been incurred by the inspection service in connection with such application.

Sec. 51.12 Authority to request inspection. Proof of the interest of an applicant in the product involved, or of the authority of any person applying for inspection in behalf of another may be required, in the discretion of the inspector.

Sec. 51.13 Accessibility of products. The applicant shall cause the products for which inspection is requested to be made reasonably accessible for sampling or inspection and to be so placed as to disclose their quality or condition. Samples of the products drawn for examination shall be inspected only under such conditions as, in the opinion of the inspector, will permit a true and correct determination to be made of their quality or condition.

Sec. 51.14 Basis of service. Inspection and certification service for quality and/or condition shall be based upon the appropriate standards promulgated by the United States Department of Agriculture, applicable standards prescribed by the laws of the State where the particular product was produced, specifications of any governmental agency, written buyer and seller contract specifications, or any written specification by an applicant which is approved by the Administrator: Provided, That, if such product is regulated

pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), or the comparable laws of any State, such inspection and certification shall be on the basis of the standards, if any, prescribed in, or pursuant to, the marketing order and/or agreement effective thereunder.

Sec. 51.15 Order of inspection. Inspection shall, insofar as practicable, be made in the order in which applications are received, except that precedence shall be given (a) to the inspection of lots involved in complaints filed pursuant to the Perishable Agricultural Commodities Act, 1930 (7 U. S. C. 499a et seq.), and (b) to appeal inspections. Precedence may also be given to applications made on behalf of the Federal Government or of a State Government.

Sec. 51.16 Financial interest of inspector. No inspector shall inspect any product in which he is financially interested, either directly or indirectly.

Sec. 51.17 Postponing inspection. If the inspector has reason to believe that, because of latent defects due to climatic or other conditions, he is unable to determine the true quality or condition of the product, he shall postpone examination for such period as may, in his judgment, be reasonably necessary to enable him to determine its true quality or condition.

Sec. 51.18 Official sampling. Samples may be officially drawn by any duly authorized inspector and delivered, or shipped, for analysis and certification to the nearest designated market or to such market as shall be directed by the Administrator. The container in which such samples are delivered, or shipped, shall contain a statement, signed by the inspector who drew the samples, showing the time and place of the sampling and the brands or other identifying marks of the containers from which the samples were drawn. The certificate based on such samples shall show the time and place of drawing the samples, and the name of the inspector by whom they were drawn.

Sec. 51.19 Certificate form. Certificates shall be issued on forms approved by the Administrator: Provided, That when an application for inspection is made by any person for the purpose of determining whether food products for use by such applicant comply with contract specifications therefor, a formal certificate need not be issued, but the fact of such compliance or non-compliance may be indicated by appropriate stamp or mark on such products or the containers thereof, or otherwise, in the discretion of the inspector.

Sec. 51.20 Issuance of certificates. The inspector shall sign and issue a separate certificate for each lot inspected by him, except that when an application covers a number of lots a single certificate may be issued to cover all such lots.

Sec. 51.21 Disposition of certificates and samples. (a) The original certificate, and not to exceed four copies (if requested by applicant prior to issuance), shall be delivered or mailed promptly to the applicant or to a person designated by him. One copy shall be filed in the office of the inspector when the inspection is made by a Federal Government employee, otherwise, it shall be filed in the appropriate office of the cooperating State Agency. One copy shall be forwarded to the Administrator to be kept on file in Washington, except that copies of certificates showing the grades of lots offered for processing or other purposes designated by the Administrator, need not be so forwarded. In the case of any product

covered by a marketing agreement and/or order effective pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), at least one copy of each certificate covering the inspection of such product shall, on request, be delivered to the administrative agency established thereunder, subject to such terms and conditions as the Administrator may prescribe. Copies may be furnished to other interested parties as outlined in Sec. 51.41.

(b) If it is necessary to take samples of the product to the inspection office for further examination the inspector, after completion of inspection of such samples shall dispose of them as follows if they have a substantial monetary value: Ascertain from the applicant if the owner wants the samples returned to him at his expense. If he does not want them so returned the inspector shall give them to a nonsectarian charitable organization, or sell them and remit the proceeds to the Agricultural Marketing Service.

Sec. 51.22 Advance information. Upon request of an applicant, all or any part of the contents of a certificate covering an inspection requested by him may be telegraphed or telephoned to him, or to any person designated by him, at his expense. If the application for such information is received after the certificate has been issued, it will be considered as an application for an extra copy of the certificate, and the fees prescribed in Sec. 51.41 shall apply.

APPEAL INSPECTION

Sec. 51.23 When appeal may be taken. An application for appeal inspection may be made whenever any financially interested person is dissatisfied with the determination stated in the original certificate.

Sec. 51.24 How to obtain. An appeal inspection may be obtained by the applicant, or other person financially interested in the product, by filing a request (a) with the inspection office nearest the point where the product is located, or (b) with the inspector who made the original inspection, or (c) with any district supervisory inspection office, or (d) with the Administrator. The application for appeal shall state the reasons therefor, and shall be accompanied by a copy of any previous inspection certificate or inspection report, and any other information which the applicant received regarding the quality or condition of the product at the time of the original inspection. Such application may be made orally or in writing, or by telegraph or telephone. If made orally or by telephone, the application shall be confirmed in writing.

Sec. 51.25 Record of filing time. A record showing the date and time of filing an application shall be made promptly by the receiving office.

Sec. 51.26 When appeal inspection may be refused. An application for an appeal inspection may be refused if: (a) The reasons for the appeal inspection are frivolous or not substantial; (b) the quality or condition of the product has undergone a material change since the inspection covering the product on which the appeal inspection is requested; (c) the lot in question is not, or cannot be, made accessible for inspection; (d) the lot relative to which appeal inspection is requested cannot be identified positively by the inspector as the lot which was previously inspected; or (e) there is noncompliance with the regulations in this part. Such an applicant shall be notified promptly of the reason for refusal.

Sec. 51.27 When an application for an appeal inspection may be withdrawn. An application for appeal inspection may be withdrawn by the applicant at any time before the appeal inspection is performed: Provided, That the applicant shall pay any travel expenses, telephone, telegraph or other expenses which have been incurred by the inspection service in connection with such application.

Sec. 51.28 Order in which made. Appeal inspections shall be made, insofar as practicable, at the time requested by the applicant and in the order in which applications are received. They shall take precedence over all other pending applications, except inspections covering lots involved in complaints filed pursuant to the Perishable Agricultural Commodities Act, 1930 (7 U. S. C. 499a et seq.).

Sec. 51.29 Who shall make appeal inspections. Appeal inspections shall be made by an inspector or inspectors designated therefor by the Administrator and whenever practical, such appeal inspections shall be made by two inspectors.

Sec. 51.30 Appeal findings. The inspector or inspectors making an appeal inspection shall sign and issue an appeal inspection certificate, which shall supersede and refer specifically to the original inspection certificate from which the appeal was taken, and contain a statement as to the quality or condition of the product, as determined by the appeal inspection. In all other respects the provisions of Secs. 51.5 to 51.22, insofar as applicable, shall apply to appeal inspection certificates, except that if the applicant for appeal inspection is not the original applicant, a copy of the appeal inspection certificate shall be mailed to the original applicant. All appeal inspection findings shall be referred to the Administrator for final decision before an appeal inspection certificate is issued.

Sec. 51.31 Superseded certificates. When an original inspection certificate shall have been superseded by an appeal inspection certificate, such original inspection certificate shall not thereafter represent the quantity or condition of the product described therein. If the original and all copies of the superseded certificate have not previously been submitted to the person receiving the application for appeal inspection, the officer issuing the superseding certificate shall forward notice of such issuance and of the superseding of the original certificate to such persons as he considers necessary to prevent fraudulent use of the superseded certificate.

LICENSED INSPECTORS

Sec. 51.32 Who may be licensed. Persons possessing adequate qualifications, as determined by such examinations as the Administrator may consider to be appropriate, may be licensed as inspectors of products which may be inspected under the regulations in this part. Such licenses shall bear the printed signature of the Secretary and shall be countersigned by an authorized employee of the Department. A licensed inspector shall perform his duties pursuant to these regulations as directed by the Administrator.

Sec. 51.33 Application to become a licensed inspector. Application to become a licensed inspector shall be made to the Administrator on forms furnished for that purpose. Each such application shall be filled in and signed by the applicant in his own handwriting, and the application shall contain or be accompanied by:

(a) A statement of present address, age, height and weight of the applicant;

(b) A statement showing education and present and previous occupations, together with names of all employers for whom he has worked with periods of service, during the last five years previous to the date of his application;

(c) A statement by the applicant that he agrees to comply with all the terms and conditions of the regulations in this part relating to the duties of inspectors; and

(d) Such other information as may be required by the Administrator.

Sec. 51.34 Suspension or revocation of license of licensed inspector. Pending final action by the Secretary, the Administrator may, whenever he deems such action necessary, suspend the license of any licensed inspector issued pursuant to the regulations in this part by giving notice of such suspension to the respective licensee, accompanied by a statement of the reasons therefor. Within 7 days after the receipt of the aforesaid notice and statement of reasons by such licensee, he may file an appeal, in writing, with the Secretary, supported by any argument or evidence that he may wish to offer as to why his license should not be suspended or revoked. After the expiration of the aforesaid 7 day period and consideration of such argument and evidence, the Secretary will take such action as he deems appropriate with respect to such suspension or revocation. When no appeal is filed within the prescribed seven days, the license shall be automatically revoked.

Sec. 51.35 Surrender of license. Upon termination of his services as a licensed inspector, or suspension or revocation of his license, a licensee shall surrender his license immediately to the office of inspection serving the area in which he is located. These same provisions shall apply in case of an expired license.

FEES AND CHARGES (DESTINATION MARKETS)

Sec. 51.36 Amount of fees, rates, and charges. For each lot of products inspected, a fee and expenses, determined in accordance with Secs. 51.37 to 51.40 shall be paid by the applicant.

Sec. 51.37 Basis for charges. (a) The fee for each lot of products inspected by a salaried inspector acting exclusively for the Department, except for peanuts, pecans, and other nuts, shall be on the following basis: For an inspection covering quality and condition, \$10.00 when the quantity involved is more than one-half of a carload of the customary size for such products in the area from which shipped but not more than a full carload, and \$6.60 when the quantity involved is not more than one-half of such carload, but the maximum fee for any carload not exceeding the customary size which contains more than one kind of a product shall be \$20.00. For an inspection covering condition-only, \$8.00 when the quantity involved is more than one-half of carload of the customary size for such products in the area from which shipped but not more than a full carload, and \$5.40 when the quantity involved is not more than one-half of such carload, but the maximum fee for condition-only inspection of any carload not exceeding the customary size which contains more than one kind of a product shall be \$16.00.

(b) For each lot of peanuts, pecans, or other nuts inspected, the fee shall be \$14.00 when the quantity involved is not more than a full carload: Provided, That the different grades and varieties of peanuts shall be considered separate lots and the fee for Farmers' stock peanuts (unshelled) shall be \$1.50 per ton.

(c) When any lot involved is in excess of a carload the quantity shall be calculated in terms of carloads and fractions thereof of the customary size for such carloads and carload rates aforesaid applied: Provided, That said fractions shall be calculated in terms of fourths or next higher fourths. When inspections are made on which formal certificates are not issued, as provided in Sec. 51.19, or when the products inspected cannot readily be calculated in terms of carlots or when samples are drawn, or when the services rendered are such that a charge on the carlot basis would be inadequate or inequitable, charges for inspection may be based on the time consumed by the inspector in connection with such inspections, computed at the rate of \$4.00 per hour, or the charges may be based upon the number of pounds or number of containers in the lot inspected, if such charges are in substantial conformity with the hourly or carload rate.

(d) Whenever inspections are performed at the request of the applicant on Saturdays, Sundays, holidays or at any other periods which are outside the inspector's regular scheduled work week, the charge for inspection shall be \$2.00 per hour or portion thereof per inspector in addition to the regular commercial lot or hourly fees specified in this subpart.

Sec. 51.38 Fees under cooperative agreement. Fees for inspections made under cooperative agreements pursuant to authority contained in any act of Congress shall be those provided by such agreements.

Sec. 51.39 Fees for appeal inspections. Fees for appeal inspections on all products shall be at the same rate as those set forth in Sec. 51.37, except that when it is found that there was a material error in the determination based upon the original inspection no fee will be charged, and except that appeal inspection for Government agencies shall be on the hourly basis prescribed in Sec. 51.37, plus traveling and other expenses authorized to be charged by the provisions in Sec. 51.40.

Sec. 51.40 Traveling, and other expenses. Such further charges may be made for traveling expenses and other items paid or incurred by the Agricultural Marketing Service in connection with an inspection made at a place where no inspector is located, or appeal inspection where the services of a second inspector are required, as will reimburse the Agricultural Marketing Service. These charges shall be included with the fee for inspection on the bill furnished the applicant.

Sec. 51.41 Fees for additional copies of inspection certificates. Additional copies of any inspection certificate other than those provided for in Sec. 51.21, may be supplied to any interested party upon payment of a fee of \$2.25 for each set of 5, or less, copies.

Sec. 51.42 Charges for inspection services on a contract basis. Irrespective of fees and charges prescribed in the foregoing sections, the Administrator may enter into contracts with applicants to perform inspection services pursuant to the regulations in this part and other requirements as prescribed by the Administrator in such contract, and the charges for such inspection services provided for in such contracts shall be on such bases as will reimburse the Agricultural Marketing Service of the Department for the full cost of rendering such inspection service, including an appropriate overhead charge to cover as nearly as practicable administrative overhead expenses, as may be determined by the Administrator.

Sec. 51.43 How fees shall be paid. Fees shall be paid by the applicant in accordance with the directions on the fee bill furnished him by the inspector, and in advance, if required by the inspector.

Sec. 51.44 Disposition of fees. (a) The fees covered by Secs. 51.37 to 51.39 shall be disposed of as follows:

(1) Fees for inspections made by salaried inspectors acting exclusively for the Agricultural Marketing Service shall be remitted promptly to the Agricultural Marketing Service.

(2) Fees for inspections made by an inspector acting under a cooperative agreement with a State or other organizations shall be disposed of in accordance with the terms of such agreement. Such portion of the fees collected under a cooperative agreement with a State as may be due the United States shall be remitted to the Agricultural Marketing Service.

(b) Fees and charges collected pursuant to Secs. 51.40 to 51.41 shall be remitted to the Agricultural Marketing Service.

(c) Fees and charges collected pursuant to Sec. 51.42 shall be disposed of in accordance with the terms of the contract. Such portion of the fees collected under a contract which may be due the United States shall be remitted to the Agricultural Marketing Service.

FEES AND CHARGES (SHIPPING AREAS)

Sec. 51.45 Schedule of fees. In the absence of specific provisions therefor contained in cooperative agreements entered into pursuant to Sec. 51.38, the fees to be charged and collected for any inspection service performed in shipping areas shall be based on the applicable rates specified in this section.

(a) Base fee for fruits and vegetables. The base fee shall be \$10.00 per carload of the customary size for the products in the area from which shipped: Provided, That the base fee shall be adjusted on an approximately proportional basis to determine the fee for any lot which is smaller or larger than a carload of the customary size, based either on the number of pounds or the number of containers.

(b) Additional fee for multiple products. An additional fee of \$0.50 (fifty cents) per commodity shall be charged whenever the lot inspected consists of more than one fruit or vegetable: Provided, That the total fee for the inspection of such a lot shall not exceed \$12.50.

(c) Additional fee for certified weight or count. An additional fee of \$2.00 per lot shall be charged for determining certified weight and \$1.00 per lot shall be charged for determining certified count.

(d) Base fee for peanuts, pecans, or other nuts. The base fee for peanuts (shelled), pecans, or other nuts shall be \$12.50 per carload of the customary size for such products in the area from which shipped: Provided, That the base fee shall be adjusted on an approximately proportional basis to determine the fee for any lot which is smaller or larger than a carload of the customary size based either on the number of pounds or the number of containers: And provided further, That the fee for farmers' stock (unshelled) peanuts shall be \$1.50 per ton.

(e) Minimum fee. The minimum fee for performing any inspection shall be \$2.00 regardless of the size of the lot involved.

Sec. 51.46 Additional charges for inspections performed at night, Sundays, or holidays. Whenever inspections are performed at the request of the applicant between the hours of 6 o'clock p.m. and 6 o'clock a. m., on Sundays or on holidays, the charge for inspection shall be \$2.00 per hour or portion thereof per inspector in addition to the regular lot fees specified in this subpart.

Sec. 51.47 Charges for inspection service on a contract basis. Irrespective of the fees and charges prescribed in Secs. 51.45 and 51.46, the Administrator may enter into contracts with applicants to perform inspection services for the purpose of establishing prescribed minimum charges for specified periods of time whenever the Administrator determines that the regular lot fees will not reimburse the Agricultural Marketing Service for the full cost of rendering such inspection services: Provided, That the fees and charges actually levied shall in no event be less than the regular lot fees per carload or per ton specified in this subpart.

Sec. 51.48 Inspections for government agencies. Unless otherwise provided in a written agreement between the applicant and the Administrator, the fees to be charged for any inspection service performed at the request of the United States or of any State, or any agency or instrumentality thereof, shall be at the rate of \$4.00 per hour.

Sec. 51.49 Travel and other expenses. Charges may be made to cover the cost of travel and other expenses incurred in connection with the performance of any inspection service.

Sec. 51.50 Fees for additional copies of certificates. Additional copies of any inspection certificate, other than those provided in Sec. 51.21, may be supplied to any interested party upon payment of a fee of \$2.25 for each set of five, or less, copies.

Sec. 51.51 Payment of fees. Fees shall be paid by the applicant in accordance with directions on the fee bill furnished him by the inspector. Either payment in advance or an advance of funds or surety bond in an amount suitable to the Administrator may be required prior to rendering inspection service.

MISCELLANEOUS

Sec. 51.52 Fraud or misrepresentation. Any willful misrepresentation or any deceptive or fraudulent practice found to be made or committed by any person in connection with: (a) The making or filing of an application for any inspection service; (b) the making of the produce accessible for sampling or inspection; (c) the use of any inspection report or any inspection certificate, or appeal inspection certificate issued under the regulations in this part; (d) the use of a facsimile form which simulates, in whole or in part, any official certificate authorized to be used under the regulations in this part for the purpose of purporting to evidence the U. S. grade of any product; (e) any other violation of the provisions of section 203 (h) of the Agricultural Marketing Act of 1946, as amended by Pub. Law 272, 84th Cong. (see Sec. 51.3); or (f) any other willful violation of the regulations in this part, or supplementary rules or instructions issued by the Administrator, may be deemed sufficient cause for debarring such person from any or all benefits of the act.

Sec. 51.53 Political activity. All inspectors are forbidden, during the period of their respective appointments or licenses to take an active part in political management or in political cam-

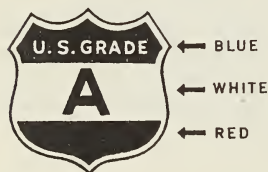
paigns and a violation by a licensee shall constitute grounds for revocation of his license. All Federal employees are subject to the applicable provisions of the Department's administrative regulation relating to political activity.

Sec. 51.54 Interfering with an inspector. Any further benefits of the act may be denied any applicant or other interested party, who, either personally or through an agent or representative, interferes with or obstructs, by intimidation, threats, assault, or in any other manner, an inspector in the performance of his duties.

Sec. 51.55 Compliance with other laws. None of the requirements in the regulations of this part shall excuse failure to comply with any Federal, State, County, or municipal laws applicable to products covered in the regulations in this part.

Sec. 51.56 Identification. Each inspector shall have in his possession at all times, and present upon request, while on duty, the means of identification furnished by the Department to such person.

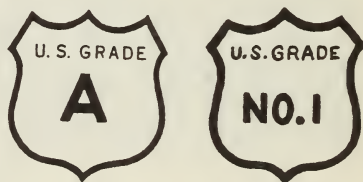
Sec. 51.57 Approved identifications. (a) The approved grade shield may be used on containers, labels or otherwise indicated on the package when: (1) The product has been packed under continuous inspection provided by the Department or by a Federal-State inspection service; (2) the plant in which the product is packed is maintained under good commercial sanitary practices, and (3) the product has been certified by an inspector as meeting the requirements of the grade shown within the shield. The grade shield approved for use shall be similar in form and design to the examples in Figures 1 and 2 of this section.



BN- 3573

SHIELD USING RED, WHITE
AND BLUE BACKGROUND

FIGURE 1.



BN- 3576

SHIELDS WITH PLAIN BACKGROUND.

FIGURE 2.

(b) The approved continuous inspection marks may be used on containers, labels or otherwise indicated on the package when: (1) The product has been packed under continuous inspection provided by the Department or by a cooperative Federal-State inspection service, (2) the plant in which the product is packed is maintained under good commercial sanitary practices; and (3) the product meets the requirements of one or more of the official U. S. Grades or such quality specifications as may be approved by the Administrator. The continuous marks approved for use shall be similar in form and design to the examples in Figures 3 through 5 of this section.



BN-3574
STATEMENT ENCLOSED
WITHIN A SHIELD

FIGURE 3.

PACKED UNDER
CONTINUOUS
INSPECTION
OF THE
U. S. DEPT. OF
AGRICULTURE
FIGURE 4.

PACKED BY

UNDER CONTINUOUS
FEDERAL-STATE INSPECTION
FIGURE 5.

Statements without the use of the shield.

(c) The grade marks set forth in paragraph (a) of this section and the inspection marks set forth in paragraph (b) of this section may be combined into a consolidated grade and inspection mark for use on products which meet the requirements of both of these paragraphs.

(d) Products may be inspected on a lot inspection basis as provided in this part and identified by an official inspector by stamping the packages with a device having an official inspection mark similar in form and design to Figure 6. The use of this mark or other comparable identification marks may be required by the Administrator whenever he determines that such identification is necessary in order to maintain the identity of lots which have been inspected and certified.

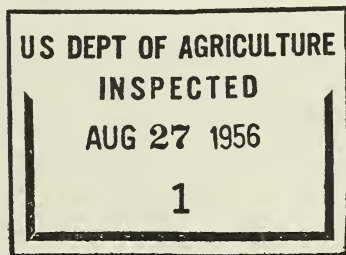


FIGURE 6.

BN-3575

Sec. 51.58 Custody of official inspection marking devices. All official inspection devices marked as shown in Figure 6 shall be kept in the custody of the Agricultural Marketing Service and accurate records shall be kept of these devices. Each inspection office shall keep a record of the devices assigned to it. Such devices shall be distributed only to authorized employees of the Department who shall keep the devices in their possession or control at all times and keep complete records of such devices.

Sec. 51.59 Congressional interest in contracts. No member of, or Delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of any contract provided for in the regulations in this subpart or to any benefit that may arise therefrom, but this provision shall not be construed to extend to such contract if made with a corporation for its general benefit, and shall not extend to any benefits that may accrue from the contract

to a member of, or Delegate to Congress, or a Resident Commissioner in his capacity as a farmer.